

REMARKS

This Response is submitted in reply to the Office Action dated July 6, 2005 and/or the newly issued Office Action dated December 29, 2005. Claims 1-26 are pending in the patent application. Claims 11, 16 and 21 have been amended. These amendments are supported at least by Fig. 1, and no new matter has been added by any of the amendments made herein.

Applicant thanks Examiner for granting a telephonic interview on June 16, 2005, attended by Heather Foster (Applicant's Representative) and Examiner Hoang M. Nguyen, the Interview Summary of which is attached. No claims were discussed, but it was established that the first Office Action was lost in the mail. Applicant thanks Examiner for promptly resending the Office Action.

The Office Action advised that Claims 16-20 were substantial duplicates of claims 11-15. Claims 21-26 were objected to because the word "coipled" was misspelled. Claims 1, 3 and 11-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Neukomm, U.S. Patent No. 4,614,085. Claims 21-26 were rejected under 35 U.S.C. §102(b) as being anticipated by Akiyama et al., U.S. Patent No. 4,329,806 ("Akiyama"). Claims 1-26 are also rejected as being based upon a defective reissue declaration. At least for the reasons set forth below, Applicant believes that the rejections and objections raised in the Office Action have been overcome and thus should be withdrawn.

Prompt and favorable action is respectfully solicited.

Applicant submits that the Office Action is mistaken in advising that Claims 16-20 are substantial duplicates of Claims 11-15. In Claim 11, the chamber is rigidly coupled directly to the canister. In contrast, in Claim 16, the chamber is rigidly coupled directly to the engine cylinder. Consequently, Applicant believes a rejection of Claims 16-20 under 37 C.F.R. 1.75 if Claims 11-15 are allowed would be improper.

Applicant has amended Claim 21 to correct the spelling of "coipled" to "coupled". Thus, the Office Action's objection for these claims is overcome.

Applicant has submitted a new reissue declaration identifying at least one error being relied upon as a basis for the reissue and pointing out the differences between new claims 11-16 and original claims 1-10. Applicant has previously submitted a Reissue Application: Consent of Assignee form and Statement Under 37 C.F.R. 3.73(b). Thus, Applicant submits the new reissue

declaration overcomes the Office Action's rejection of Claims 1-26 for being based on a defective reissue declaration.

Claim 1 relates to a fluid input assembly for a pneumatic engine for toy vehicles. The assembly includes a rechargeable inflatable resilient compressed air canister.

Neukomm relates to a gas powered engine. However, Neukomm does not teach, disclose or suggest using a rechargeable air canister. Instead, Neukomm teaches using "a commercially available carbon dioxide cartridge". Col. 4, Lines 26-27. Such cartridges are disposable rather than rechargeable. Thus, Neukomm fails to teach or suggest that such a cartridge is rechargeable or any mechanism for recharging such a cartridge. Consequently, Neukomm does not disclose or suggest that the assembly includes a rechargeable inflatable resilient compressed air canister as described in Claim 1.

For at least these reasons, Claim 1 and Claim 3, which depends from Claim 1, are each patentably distinguished over Neukomm and are in condition for allowance. For similar reasons, Claims 11 and 16 and Claims 12-15, which depend from Claim 11, and Claims 17-20, which depend from Claim 16, are each patentably distinguished over Neukomm and are in condition for allowance.

Claim 21 relates to a fluid input assembly for a pneumatic engine for toy vehicles. The assembly includes a chamber and an engine cylinder. A continuous piece of material is at least a portion of the chamber and at least a portion of the engine cylinder.

Akiyama relates to a fluid engine for pneumatic toys. However, Akiyama does not teach, disclose or suggest that a continuous piece of material is at least a portion of the chamber and at least a portion of the engine cylinder. The Office Action states that Akiyama teaches an engine cylinder 12 and a chamber formed by reference numeral 46. However, Akiyama does not disclose or suggest any continuous piece of material that is both at least a portion of the engine cylinder 12 and the chamber formed by reference numeral 46. Thus, Applicant submits that Akiyama does not disclose or suggest that a continuous piece of material is at least a portion of the chamber and at least a portion of the engine cylinder as described in Claim 1.

For at least these reasons, Claim 21 and Claims 22-26, which depend from Claim 21, are each patentably distinguished over Akiyama and are in condition for allowance.

Claim 11 relates to a pneumatic engine having a chamber and a canister. The chamber is rigidly coupled directly to the canister. Similarly, Claim 16 relates to a pneumatic engine having a chamber and an engine cylinder. The chamber is rigidly coupled directly to the engine cylinder.

As stated above, Akiyama relates to a fluid engine for pneumatic toys. The Office Action states that Akiyama teaches an engine cylinder 12, a canister 20 and a chamber formed by reference numeral 46. However, Akiyama does not disclose or suggest either that chamber formed by reference numeral 46 is directly rigidly coupled to either the engine cylinder 12 or the canister 20. Akiyama teaches that flexible tube 42 fluidly connects the cylinder 20 to the chamber 46 and that flexible tube 48 fluidly connects the chamber 46 to the engine cylinder 12. Col 2, Lines 8-20. However, these connections are neither rigid nor direct. Akiyama also teaches that the engine cylinder 12, the canister 20 and the chamber 46 are mounted to a frame 16. Col. 1, Line 63 – Col. 2, Line 20. However, even if all of these mountings are rigid, each of the mounting is to the frame 18 rather than directly to one of the other components. Thus, Applicant submits that Akiyama does not disclose or suggest that the chamber is rigidly coupled directly to the canister as described in Claim 11. Similarly, Applicant submits that Akiyama does not disclose or suggest that the chamber is rigidly coupled directly to the engine cylinder as described in Claim 16.

For at least these reasons, Claims 11 and 16, and Claims 12-15, which depend from Claim 11, and Claims 17-20, which depend from Claim 16, are each patentably distinguished over Akiyama and are in condition for allowance.

In light of the above, Applicants respectfully submit that Claims 1-26 are patentable over the art of record. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

MacLane C. Key

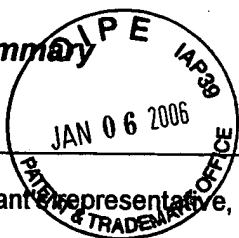
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Dated: 1-5-06

Interview Summary

Application No.

10/026,674

Applicant(s)

KOWANACKI ET AL.

Examiner

Hoang M. Nguyen

Art Unit

3748

All participants (applicant, applicant's representative, PTO personnel):

(1) Hoang M. Nguyen (PTO).

(3) _____.

(2) Ms. Heather Foster (Applicant's representative).

(4) _____.

Date of Interview: 16 June 2005.Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.Claim(s) discussed: NONE.Identification of prior art discussed: NONE.Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant notified the Examiner that the first Office Action was lost in the mail.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

HOANG NGUYEN
PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) If appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.